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Constitutional Law - When Does Admission of Confession in State Court Violate Due Process?

Joseph J. Ziino

RECENT DECISIONS

Constitutional Law—When Does Admission of Confession in State Court Violate Due Process?—In *Ashcraft* v. *State of Tennessee*, (—U. S.—, 64 Sup. Ct. 921, 88 L.ed. 858 (1943), defendant Ashcraft was accused of the murder of his wife and convicted of the charge "solely and alone" on the basis of a confession which he made while in custody of the police and after thirty-six hours of continuous secret interrogation by expert investigators. The Supreme Court of the United States held that the undisputed circumstances under which the confession was obtained were "inherently coercive," making the confession involuntary and violative of due process.

In the *Ashcraft* case, defendant, on Saturday, June 14, ten days after the murder, at 7 o'clock P.M. was taken in "custody" and continuously questioned by relays of officers and lawyers for thirty-six hours in a room fully equipped with all sorts of crime detection devices. No counsel, friends, sleep, rest or food was allowed. For twenty-eight hours defendant made no admissions, after which he stated that a certain Wares, a Negro, had overcome him, abducted his wife and probably killed her. Wares was apprehended, admitted the crime, but said that defendant hired him to do it. The State contended that in a subsequent voluntary statement defendant substantially admitted the truth, but refused to sign the statement until his lawyer would read it.

At the trial defendant denied connection with the crime, and insisted that the confession was obtained by coercion.

In deciding the case, the Supreme Court exercised its power to make an independent examination[1] of the record coming from a state court in which a substantial question of due process is raised by defendant. Upon the uncontradicted evidence alone the court found the circumstance under which the confession was made to be "so *inherently coercive* that its very existence is irreconcilable with the possession of mental freedom"[2] and reversed the conviction.

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[1] Lisemba v. California, 314 U.S. 219, 62 Sup. Ct. 280, 86 L.Ed. 166 (1941); Snyder v. Massachusetts, 291 U.S. 97, 54 Sup. Ct. 330, 78 L.Ed. 674 (1933); Buchalter v. New York, 319 U.S. 427, 63 Sup. Ct. 1129, 87 L.Ed. 1492 (1942) "where this requirement (due process) has been disregarded in criminal trials in a state court, this Court has not hesitated to exercise its power to enforce the constitutional guarantee." Powell v. Alabama, 287 U.S. 45, 53 Sup. Ct. 55, 77 I.Ed. 158 (1932); Avery v. Alabama, 308 U.S. 444, 60 Sup. Ct. 321, 84 L.Ed. 377 (1939); White v. Texas, 310 U.S. 530, 60 Sup. Ct. 1032, 84 L.Ed. 1342 (1939); Smith v. O'Grady, 312 U.S. 329, 61 Sup. Ct. 572, 85 L.Ed. 859 (1940); Ward v. Texas, 316 U.S. 547, 62 Sup. Ct. 1139, 86 L.Ed. 1663 (1941).

[2] Bram v. United States, 168 U.S. 532, 18 Sup. Ct. 183, 42 L.Ed. 568 (1897); Wan v. United States, 266 U.S. 1, 45 Sup. Ct. 1, 69 L.Ed. 131 (1924); Burdeau v. McDowell, 256 U.S. 465, 41 Sup. Ct. 574, 65 L.Ed. 1048 (1920); Counselman v. Hitchcock, 142 U.S. 547, 12 Sup. Ct. 195, 35 L.Ed. 1110 (1891); Chambers v. Florida, 309 U.S. 227, 60 Sup. Ct. 472, 84 L.Ed. 716 (1939).

The position of the majority is challenged by a strong dissenting opinion written by Mr. Justice Jackson and joined by Justices Roberts and Frankfurter. Its position is that the long established line of demarcation in the exercise of power to reverse a decision coming from state and federal courts must be maintained. It cites the recently decided *McNabb* case[3] which came from a lower federal court. There the conviction, based solely upon a confession obtained after forty-eight hours of nearly continuous questioning, was set aside. Among the several reasons for the reversal, the Supreme Court stated that in its supervisory capacity to "establish and maintain civilized standards of procedure and evidence" in lower federal courts, it could go beyond powers granted by the Constitution and examine the circumstances under which the confession was obtained and determine its voluntary or involuntary character.

However, this supervisory power, it was pointed out, is not granted over state courts, and its reviewing power is confined to fundamental constitutional principles.[4] Heretofore a confession in a state case was admissible unless it was proved and found that it was obtained by pressure so strong that it was in fact involuntarily made, that is, that the particular confessor "so lost his freedom of action that the statements made were not his but were the result of the deprivation of his free choice to admit, to deny, or to refuse to answer."[5] It is argued in the dissenting opinion that it appeared that the defendant was "cool," "calm," and "collected" when the confession was made, from which the inference could be drawn that whatever degree of coercion was used, it did not render his mind unfree to tell the truth of his guilt. "In short, the true test of admissibility was asserted to be that the confession is made freely, voluntarily and without compulsion or inducement of any sort,"[6] and that such a "confession, if freely and voluntarily made, is evidence of the most satisfactory character."

But the majority opinion insists that the Court has not exceeded its power, nor has it failed to consider the finding of the State Supreme Court. Its decision is not based upon disputed facts of which the trial judge and the jury are in better position to appraise the truth, but upon facts uncontradicted by either side.[7] The State has

[3] McNabb v. United States, 318 U.S. 332, 63 Sup. Ct. 608, 87 L.Ed. 819 (1942); Anderson v. United States, 318 U.S. 350, 63 Sup. Ct. 599, 87 L.Ed. 829 (1942).
[4] Herbert v. Louisiana, 272 U.S. 312, 47 Sup. Ct. 103, 71 L.Ed. 270 (1925).
[5] Lisemba v. California, 314 U.S. 219, 62 Sup. Ct. 280, 86 L.Ed. 166 (1941).
[6] Roszcyniala v. State, 125 Wis. 414, 104 N.W. 113 (1905); Yanke v. State, 51 Wis. 464, 8 N.W. 295 (1881); Pollack v. State, 215 Wis. 200, 253 N.W. 560 (1934); Harrison v. State, 12 So. (2d) 307 (Florida, 1943); People v. Goldblatt, 383 Ill. 176, 49 N.E. (2d) 36 (1943); Wilson v. United States, 162 U.S. 613, 16 Sup. Ct. 895, 40 L.Ed. 1090 (1895); Lisemba v. United States (*supra*).
[7] Lyons v. State of Oklahoma, 64 Sup. Ct. 1208 (1944).

admitted that defendant was minutely investigated by experts in a room well equipped with all sorts of crime detection devices for a period of twenty-eight hours, without rest or food. Consideration of these circumstances is no infringement upon State rights, but a practical application of the fundamental principles of due process guaranteed by the Constitution.[8]

As already indicated, heretofore the ultimate question in matters of admissibility of confessions has been whether the confessor was in possession of self control and of free will to tell the truth without any fear or hope which might exert an undue influence upon his mind.[9] In determining this, the courts considered the sex, color, race, intelligence, education, religion and the susceptibility of the particular individual to the alleged coercion. Unless it was proved that the individual's will had been impaired and his self control destroyed, the presumption of legality and regularity was in favor of the State.[10] By this decision the Court has determined that a confession resulting from an examination of this duration is presumably "inherently coercive." This presumption is irrebuttable.

Thus, the admissibility of such confession is no longer measured by the mental state of the particular individual alone, but also, in a general way, by the length of time taken to obtain it, and other circumstances under which it was made. The dissenting opinion questions: "If," then, "thirty-six hours is more than permissable, what about 24? or 12? or 6? or 1? Are all these inherently coercive"? In *Lyon* v. *State of Oklahoma*,[11] twelve hours intervened between a coerced confession and a subsequent one. The latter confession was held voluntarily given. An exact formula to determine what degree of time or what set of circumstances will made a confession "inherently coercive"—and irrebuttably so—is not explained by the Court. To this extent the state courts are left somewhat in a state of confusion, but the decision indicates that the view taken by the Supreme Court toward coerced confessions in the *McNabb* case[12] in the exercise of the supervisory control over the lower federal courts is also to prevail in the interpretation of the due process clause as applied to state decisions.

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[8] McNabb v. United States (*supra*); Chambers v. Florida, 309 U.S. 227; 60 Sup. Ct. 472, 84 L.Ed. 714 (1939); Herbert v. Louisiana, 272 U.S. 312, 47 Sup. Ct. 103, 71 L.Ed. 270 (1926); Brown v. Mississippi, 297 U.S. 278, 56 Sup. Ct. 461, 80 L.Ed. 682 (1935).
[9] Chambers v. Florida (*supra*).
[10] Herbert v. Louisiana (*supra*).
[11] *Supra*, note 7.
[12] McNabb v. United States, *supra*, note 8.